

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
- EASTERN DIVISION -**

FRANK WILLIAM BONAN II,

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE  
CORPORATION, et al.,

Defendants

Case No. 4:23-cv-00008

**FDIC’S RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION TO EXPEDITE  
BRIEFING ON MOTION FOR TEMPORARY RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Plaintiff Frank William Bonan II (“Bonan”) has had at least six months’ advance notice of a scheduled FDIC administrative hearing, which is set to commence on January 17, 2023. *See* Exhs. A (July 1, 2022 order setting Jan. 17 hearing), B (Oct. 27, 2022 joint status report by parties confirming availability for Jan. 17 hearing) , C (Nov. 7, 2022 notice cancelling telephonic conference in light of agreement of parties). Yet he waited until tonight (January 3) to file the present collateral attack by seeking a TRO and preliminary injunction in this Court. The FDIC objects to Bonan’s proposed expedited briefing schedule, which would have the FDIC’s response to the TRO and preliminary injunction motion due by Friday (January 6). Bonan should not be able to manufacture an artificial “emergency” with his own dilatory conduct, and the FDIC

should not be required to prepare a brief in less than three days as a result of Bonan's last-minute gambit.<sup>1</sup>

Bonan's sole basis for seeking injunctive relief is that the FDIC administrative proceeding allegedly unconstitutionally deprives him of a right to a jury trial. Putting aside that Congress directed these arguments be raised in the administrative process, not in a collateral attack, *see* 12 U.S.C. § 1818(i), the FDIC proposes a briefing schedule that would conclude in advance of the January 17, 2023 administrative hearing, yet avoid prejudice inherent in having to prepare substantial briefing in less than three days, as Bonan contemplates. In this regard, the FDIC proposes a modified expedited schedule, with the agency's opposition due on January 10, and Bonan's reply due January 13.

Respectfully submitted,

FEDERAL DEPOSIT INSURANCE CORPORATION  
Andrew J. Dober  
Senior Counsel

/s/ Andrew J. Dober

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Corporation*

DATED: January 3, 2023

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<sup>1</sup> In addition to naming the FDIC, Bonan needlessly named the presiding Administrative Law Judge and five FDIC Board members as official capacity defendants. Undersigned counsel has not yet had the opportunity to verify representation for the official capacity defendants and files this motion solely on behalf of the FDIC at this time.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on January 3, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel and parties of record registered to receive such notices.

/s/ Andrew J. Dober  
Andrew Dober